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In re Application of	:	
STUMLER, et al.	:	
U.S. Application No.: 09/868,527	:	DECISION ON PETITION
PCT No.: PCT/US00/11743	:	
Int. Filing Date: 26 April 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 April 1999	:	
Attorney Docket No.: 020903-014400US	:	
For: DISPENSING MACHINE WITH	:	
PORTION CONTROL	:	

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed 26 February 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 April 2000, applicant filed international application PCT/US00/11743, which claimed priority of an earlier application filed 27 April 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 October 2001.

On 19 June 2001, a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" was filed for this international application by counsel from the firm of Camoriano and Associates. An executed power of attorney was not filed. This submission did not contain payment of the full, U.S. basic national fee but only an assignment document for recording and payment of the \$40.00 recording fee. The submission was assigned application number 09/868,527.

On 25 October 2001, a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" was filed for this international application by counsel from Dorr, Carson, Sloan & Birney, P.C. accompanied by payment of the basic national fee; an executed combined declaration and power of attorney; an assignment document for recording and a First Preliminary Amendment. This submission was assigned application number 10/030,517.

On 28 December 2001, a "Notification of Abandonment" (Form PCT/DO/EO/909) was mailed to the firm of Camoriano and Associates for failure to provide the full U.S. Basic National Fee by 30 months from the earliest claimed priority date.

On 28 August 2002, a "Notice of Cancellation of Assigned Serial Number" (Form PCT/DO/EO/908) was mailed to the firm of Camoriano and Associates notifying applicant that serial number 10/030,517 had been canceled and the fees paid refunded to Deposit Account No.: 04-1414.

On 26 February 2003, applicant filed the present petition to revive accompanied by an executed power of attorney and separate revocation of power of attorney.

DISCUSSION

A review of the application file finds that the papers filed 25 October 2001 and originally assigned serial number 10/030,517 have been transferred to the present application and amended with the present serial number, 09/868,527. Further, an examination of said papers shows that applicant provided payment of the full, U.S. Basic National Fee prior to the expiration of 30 months from the priority date and that the filing was accompanied by an executed combined power of attorney and declaration of the inventors. Thus, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied as of 25 October 2001. Therefore, the present petition to revive is dismissed as moot. The petition fee will not be charged to Deposit Account No.: 20-1430. Instead, the fees originally paid 25 October 2001 and subsequently refunded to Deposit Account No.: 04-1414 will be charged to Deposit Account No.: 20-1430 and considered timely filed. Applicant should continue to reference serial number 09/868,527 in all future communications.

CONCLUSION

As detailed above, applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED as moot**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **25 October 2001**.



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